

CAREGIVER BACKGROUND CHECK PILOT QUESTIONS AND ANSWERS

B. Included Caregivers

B1. What types of long-term care facilities and providers are subject to the CMS Background Check Pilot requirements?

Pilot states must include the following long-term care facilities and providers in their background check program:

- Skilled Nursing Facilities and Nursing Facilities
- Intermediate Care Facilities for Persons with Mental Retardation (ICFs/MR)
- Home Health Agencies
- Long-term Care Hospitals (Swing Bed Hospitals)
- Hospitals with swing-beds
- Hospice
- Home Community Based Facilities (Community Based Residential Facilities) – 9 beds and up
- Personal Care Agencies – Medicaid State Plan

Although CMS has given states the authority to include other long term care facilities or providers, Wisconsin has chosen to include only the required provider types.

B2. Which Counties are included?

Dane, Kenosha, LaCrosse, Shawano

Therefore , providers serving Dane, Kenosha, La Crosse, and Shawano which are located and do their hiring out of Dane, Kenosha, La Crosse and Shawano Counties are covered by the pilot.

Only newly hired caregivers hired to provide care in a pilot county while working for an agency located in a pilot county will be included in the pilot.

B3. I thought Douglas County was subject to the pilot.

Douglas County was originally included in the pilot but was later excluded because of funding concerns.

B4. What constitutes a caregiver?

A caregiver is anyone working for a covered provider who:

- Is employed by or under contract with an entity
- Has regular, direct contact with the entity's clients or the personal property of the clients
- Is under the entity's control

“Regular” means contact that is planned, scheduled, expected or periodic.

CAREGIVER BACKGROUND CHECK PILOT QUESTIONS AND ANSWERS

“Direct contact” when used in reference to a person’s contact with clients, means face-to-face physical proximity to a client that affords the opportunity to commit abuse or neglect of a client or misappropriation of a client’s property.

“Under the entity’s control”, means a person employed by or under contract with the entity for whom the entity does both of the following?

- (a) Determines whether a person employed by or under contract with the entity who has access to clients may provide care, treatment or other similar support service functions to clients served by the entity.
- (b) Directs or oversees one or more of the following:
 - The policy or procedures the person must follow in performing his or her duties as a caregiver.
 - The conditions under which the person performs his or her duties.
 - The tasks performed by the person.
 - The person’s work schedule.
 - The supervision or evaluation of the person’s work or job performance, including imposing discipline or awarding performance awards.
 - The compensation the person receives for performing his or her duties as a caregiver.

The following types of individuals, who may otherwise meet the definition of a caregiver, are not included in the pilot: volunteers, students, temporary workers, and owners/operators.

B5. What constitutes a new hire?
What if the individual worked for our agency in the past?

A new hire is an employee hired by a covered provider during the pilot period for that county.

The pilot requires that all new hires be subject to the background check requirements, regardless of past employment. As a result, if a caregiver worked for Provider A from March 1, 2006 until May 1, 2006, quit but reapplied in August 1, 2006, that individual would need to undergo a new background check.

B6. What about existing employees?
Are they covered by the pilot?

Employees hired prior to the pilot start date in the county are not covered by the pilot. Existing employees who need 4-year renewals of their background check are not covered by the pilot.

Employers conducting 4-year renewals should use the existing background check process. Four-year renewals will not include a fingerprint-based background check.

CAREGIVER BACKGROUND CHECK PILOT QUESTIONS AND ANSWERS

B7. Must a background check, according to the requirements of section 307 of the MMA, be completed for newly hired caregiver applicants who are minors (under 18)?	Yes. Section 307 of the MMA requires a background check (search of available registries, state and national criminal history record search) for all prospective direct patient employee applicants. There is no exemption for minors.
B8. Are volunteers subject to the background check requirements? Many hospice providers use volunteers to perform nursing related services.	No, volunteers are not included in the pilot. CMS is allowing states to choose to include volunteers in the design of their program; however, for purposes of the pilot program, volunteers are not considered newly hired caregivers. Therefore, grant funds may not be used to directly cover any fees to conduct background checks on volunteers. Wisconsin has chosen not to include volunteers in our pilot.
B9. Are students subject to the background check requirements? Our nursing home regularly has students doing clinical studies in our facility.	No, students are not subject to the pilot requirements. Providers should continue the current process for students.
B10. How does this pilot affect temporary workers? We hire a lot of temporary workers. Do we have to fingerprint them all? Does the temporary agency do that? When are temporary workers considered a new hire?	Temporary workers are not covered in the pilot. Affected providers should continue the existing policies and procedures for temporary workers. See the Wisconsin Caregiver Program Manual Chapter 2 (2.1.4) for more detail
B11. Are operators and owners subject to the pilot?	No, operators and owners are not included in the pilot. DHFS will continue to complete name-based caregiver background checks on license holders/owners when they apply for a facility license.
B12. Does the background check have to be complete before the	No, the entire background check does not have to be completed before the person starts working; however, it must be completed within 60 days of hire.

CAREGIVER BACKGROUND CHECK PILOT QUESTIONS AND ANSWERS

individual starts work?

If the individual's Background Information Disclosure form is clean, the individual can be provisionally hired for up to 60 days pending the results of the background check. All steps in the background check process, including the fingerprint background check, must be completed before that 60 days expires.

B13. With Kenosha's pilot beginning 2/1/06 - if we decide to hire an applicant for example in February 2006 that applied in January 2006, do we fingerprint that new hire?

Affected providers in Kenosha need to require the full pilot background process for individuals who start the hiring process on February 1, 2006 or later. So, an individual who submitted their application in January 2006 but isn't hired until March 2006 would not be subject to the pilot requirements.

B14. The La Crosse County Home Health Agency (license holder) contracts with two providers for physical therapy services. Medicare reimbursements are received for these services. If these two agencies hire a new physical therapist, will they be covered by the Fingerprinting Pilot project?

Yes. The Home Health Agency's subcontractor will have to comply with the pilot requirements.

B15. La Crosse County Health Department is the licensed Home Health Agency. What is our responsibility versus the responsibility of the agencies we contract with? Do we need to see the criminal checks that they do in order to know they are being done properly?

Under the existing Caregiver Law, if your subcontractors are providing Home Health services, they must run the current Caregiver Background Check for all staff providing Home Health services. Ultimately, it is La Crosse County's responsibility as the license holder to ensure that the background checks are done for the subcontractors. If noncompliance is found, La Crosse County as the license holder will be cited. With that in mind, however, La Crosse County is not required to see all of the background checks or have copies of those checks in your files. You can establish another means for ensuring compliance.

Under the pilot, the same will hold true. Subcontractors will have to run the pilot background check and keep the results in their files. The licensed agency is not required to view or keep copies of those background checks, although you may set up any compliance process that works for you.

If the subcontractors are providing PCW services, rather than Home Health services, they would not be required to run the current Caregiver Background Check today but would be required to run the pilot background check during the pilot period of February 2006-

CAREGIVER BACKGROUND CHECK PILOT QUESTIONS AND ANSWERS

September 2007. Again, the licensed agency is not required to view or keep copies of those background checks, although you may set up any compliance process that works for you.

B15. La Crosse County Health Department is the licensed Home Health Agency. What is our responsibility versus the responsibility of the agencies we contract with? Do we need to see the criminal checks that they do in order to know they are being done properly?

Under the existing Caregiver Law, your subcontractors are providing Home Health services, they must run the current Caregiver Background Check for all staff providing Home Health services. Ultimately, it is La Crosse County's responsibility as the license holder to ensure that the background checks are done for the subcontractors. If noncompliance is found, La Crosse County as the license holder will be cited. With that in mind, however, La Crosse County is not required to see all of the background checks or have copies of those checks in your files. You can establish another means for ensuring compliance.

Under the pilot, the same will hold true. Your subcontractors will have to run the pilot background check and keep the results in their files. La Crosse County is not required to view or keep copies of those background checks, although you may set up any compliance process that works for you.

If La Crosse County's subcontractors are providing PCW services, rather than Home Health services, they would not be required to run the current Caregiver Background Check today but would be required to run the pilot background check during the pilot period of February 2006-September 2007. Again, La Crosse County is not required to view or keep copies of those background checks, although you may set up any compliance process that works for you.